

REMARKS

Pending claims 1-34 are rejected as being based upon an allegedly defective reissue oath/declaration. Otherwise, claims 1-34 are indicated as being allowable to Applicant.

The reissue declaration filed in the present application has been rendered defective for allegedly failing to contain a statement concerning the non-deceptive intent of errors being corrected in the reissue application, as suggested by 37 C.F.R. §1.175 and MPEP §1414. In this regard, the MPEP states:

“In order to satisfy this requirement, the following statement *may* be included in an oath or declaration:

‘All errors which are being corrected in the present reissue application up to the time of filing of this declaration arose with out any deceptive intention no the part of the applicant.’” MPEP 1414(III) (Rev.1, Feb. 2000). (Emphasis added.)

In reply, the Examiner is directed to paragraph six (6) of the present Reissue Declaration in which Applicant states, “the error in claiming less that I had a right to claim (described and specified in Paragraph 5) arose *without any deceptive intent* on my part...” (emphasis added). Paragraph 5 describes the Applicant’s error of claiming less than he had a right to claim, which occurred up to the time of filing the reissue declaration. Applicant respectfully notes that the quoted MPEP section uses the suggestive term “may” to imply that the provided language can optionally be used in a reissue declaration but is not required. That is, other language may be accepted, such as that contained in Applicant’s original reissue declaration. Thus, it is submitted that Applicant’s reissue declaration satisfies the provisions of 37 C.F.R. §1.175 and MPEP §1414 because the declaration indicates the non-deceptive nature of errors corrected by the reissue application occurring up to execution of the declaration. Accordingly, reconsideration of the declaration and withdrawal of the determination of defectiveness is respectfully requested.

As mentioned, claims 1-34 are otherwise allowable over the prior art. Accordingly, this application is now in condition for allowance. Prompt issuance of a Notice of Allowance is respectfully requested.

The Examiner is invited to contact Applicant's attorney at the below-listed telephone number regarding this Response or otherwise concerning the present application.

Applicant hereby petitions for any necessary extension of time required for consideration of the present Submission.

If there are any charges due with respect to this Submission or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicant's attorneys.

Respectfully submitted,

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